

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JACQUERE JAMES DORAN,

Petitioner,

v.

DAVID BREWER,

Respondent.

No. 2:22-cv-2040 KJN P

ORDER

Petitioner proceeds pro se with an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2241. He paid the filing fee. On November 18, 2022, the undersigned directed respondent to file a responsive pleading within 60 days.

However, on December 12, 2022, petitioner filed a document styled, “Amended Habeas Corpus Petition.” (ECF No. 8.) Although he claims it is his amended pleading, petitioner did not include all of his claims in one pleading. Rather, he “adopts and incorporates by reference each claim raised” in his original habeas petition. (ECF No. 8 at 1 n.1.)

An amended pleading supersedes the original pleading. See Loux v. Rhay, 375 F.2d 55, 57 (9th Cir. 1967). Once an amended pleading is filed, the original pleading no longer serves any function in the case. Id.; see also L.R. 220 (every pleading to which an amendment is permitted as a matter of right shall be retyped and filed so that it is complete in itself without reference to

1 the prior pleading.). Because the amended petition must be complete in itself, with all claims
2 raised in one petition, the amended petition is dismissed, and petitioner is granted leave to file one
3 amended petition that contains all of his claims. Respondent is relieved of his obligation to
4 respond to the original complaint.


5 Petitioner is cautioned that failure to file a second amended petition will result in this
6 action proceeding on petitioner's original petition.

7 Accordingly, IT IS HEREBY ORDERED that:

- 8 1. The November 18, 2022 order (ECF No. 3) is vacated;
- 9 2. The first amended petition (ECF No. 8) is dismissed with leave to amend;
- 10 3. Petitioner is granted thirty days in which to file a second amended petition that
11 includes all of his claims; and
- 12 4. The Clerk of the Court is directed to send petitioner a copy of his original petition
13 (ECF No. 1), as well as a copy of his amended petition (ECF No. 8).

14 Dated: December 16, 2022

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KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE